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IN THE

Supreme Court of the United States

October Term, 1968

No. 150

FRANCES MATTIELLO,

Appelant,

v.

STATE OF CONNECTICUT

Appellee.

ON APPEAL FROM THE APPELLATE DIVISION OF THE CIRCUIT COURT OF CONNECTICUT

BRIEF OF APPELLEE

GEORGE F. CARROLL, JR.,
Prosecuting Attorney,
Circuit Court of Connecticut,
First Circuit, Norwalk
Attorney for Appellee

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Constitutional Provision and Statutes Involved

In addition to those set forth in appellant's brief, the following are believed to be relevant:

1. Connecticut General Statutes

§ 17-390. Detention for offense punishable by prison or jail sentence

Any offender sentenced to the reformatory by the superior court for any offense punishable by imprisonment in the State Prison may be detained in the reformatory not more than five years, unless he has been sentenced for a longer term, in which case he may be held for such longer term. Any offender sentenced to the reformatory for an offense for which the maximum punishment is a sentence to a jail, with or without a fine, may be detained in the reformatory not more than two years. (1949 Rev., § 2773.)

2. Connecticut General Statutes

§ 17-360. Commitment

Women over sixteen years of age belonging to any of the following classes may be committed by any court of criminal jurisdiction to said institution: First, persons convicted of, or who plead guilty to, the commission of felonies; second, persons convicted of, or who plead guilty to, the commission of misdemeanors, including prostitution, intoxication, drug-using and disorderly conduct; third, unmarried girls between the ages of sixteen and twenty-one years who are in manifest danger of falling into habits of vice or who are leading vicious lives, and who are convicted thereof in accordance with the provisions of section 17-379; fourth, women sentenced to jails. Only such offenders may be committed to said institution as in the opinion of the trial court will be benefited physically, mentally or morally by such commitment, and, immediately upon commitment, a careful physical and mental examination, by a competent physician, shall be made of each person committed. The court imposing a sentence on offenders of any class shall not fix the term of such commitment. Commitment to said institution shall be made within one week after sentence is imposed, but no offender shall be committed to said institution without being accompanied by a woman in addition to the officer. The trial court shall cause a record of the case to be sent with the commitment papers on blanks furnished by the institution. The duration of such commitment, including the time spent on parole, shall not exceed three years, except when the maximum term specified by law for the crime for which the offender was sentenced exceeds that period, in which event such maximum term shall be the limit of detention under the provisions of this chapter, and, in such cases, the trial court shall specify the maximum term for which the offender may be held under such commitment. (1961, P.A. 580, § 4.)

Questions Presented

1. Is the judgment of the Circuit Court of Connecticut supported on independent state grounds, namely the conviction and sentence on the lascivious carriage charge from which no appeal was taken?

2. Can appellant prove that *C.G.S.* (Sec 17-379) is unconstitutionally vague without showing that as applied to the facts in her own case the statute was so vague and uncertain that she was not presented with an ascertainable standard of guilt?

3. Did appellant's conviction and sentence under *C.G.S.* (Sec 17-379) violate the due process clause and the equal protection of the laws clause of the United States Constitution?

Statement of the Case

The appellant, an unmarried woman born April 15, 1949, was charged with: "being in manifest danger of falling into habits of vice", Sec. 17-379, *Conn. Gen. Statutes*, lascivious carriage, Sec. 53-219, and disorderly conduct, Sec. 53-175.

She demurred to the information as to Sec. 17-379, attacking the statute on two grounds: (1) unfair discrimination against certain females, (2) vagueness. The demurrer was overruled, she pleaded not guilty, and there was a trial to the court. The evidence revealed a lack of supervision over appellant's activities and bizarre and promiscuous sexual conduct involving many men and much drinking.

At the conclusion of the trial appellant was found guilty of violating Sections 17-379 and 53-219. She was sentenced to the Connecticut State Farm for Women, sentences to run concurrently. She appealed the overrulling of the demurrer. She did not appeal her conviction for lascivious carriage. There was no appeal from any of the doings at the trial, and the evidence is not before this court.

The Appellate Division of the Circuit Court of Connecticut upheld appellant's conviction. Application for certification to the Supreme Court of Connecticut was denied.

Appellant was at all times represented by guardian and counsel.

Summary of the Argument

Appellant was convicted of violating *C.G.S.* Sec. 53-219 at the same time she was convicted under *C.G.S.* Sec. 17-379. She received concurrent indeterminate sentences to the Connecticut State Farm for Women. Thus, the judgment and sentence are supported on the lascivious carriage disposition and this was not appealed.

The applicant cannot prove unconstitutional vagueness without reference to the facts of the case as brought out during the testimony. Said facts are not before the Court.

Appellant's conviction and confinement under *C.G.S.* Sec. 17-379 are not in violation of the due process and equal protection clauses of the United States Constitution.

I. The Judgment and Sentence are Supported on Independent State Grounds, Namely the Conviction and Sentence on the Lascivious Carriage Charge from which No Appeal Was Taken.

Appellant was tried and convicted of the crime of lascivious carriage *C.G.S.* Sec. 53-219 at the same time as her trial and conviction on the charge of being in manifest danger of falling into habits of vice. She was sentenced to the Connecticut State Farm for Women on each charge, sentences to run concurrently.

Two sections of the Connecticut General Statutes refer to commitment to the Connecticut State Farm for Women. Sec. 17-360 entitled "Commitment" is in Chapter 309,

Part I, "The Connecticut State Farm for Women". Sec. 17-379 entitled "Commitment of girls over sixteen" is in Chapter 309, Part III, "Miscellaneous Agencies". Both sections provide for commitment of unmarried young women between the ages of sixteen and twenty-one who are "in manifest danger of falling into habits of vice" to the Connecticut State Farm for Women. Sec. 17-360 also provides, *inter alia*, that "women over sixteen years of age" may be committed to the Connecticut State Farm for Women if convicted of "the commission of misdemeanors, including prostitution, intoxication, drug-using and disorderly conduct". Sec. 17-379 provides that any unmarried female between the ages of sixteen and twenty-one "who has committed any crime" may be committed to institutions that receive and care for "females who have fallen or are in danger of falling into vicious habits".

Under Sec. 17-360, the maximum duration of commitment including time spent on parole, is three years except where the maximum sentence for the crime of which the offender was convicted exceeds that period. Under Sec. 17-379, the maximum duration of commitment is until the offender becomes twenty-one.

Both of appellant's convictions come within both Sec. 17-360 and Sec. 17-379. At the time of her conviction, appellant was seventeen, so the three years would expire before she reached twenty-one. It seems clear that any ambiguity as to maximum duration of sentence would have to be resolved in her favor, and that the three year limit would apply. See Appendix A. This would apply equally to the "manifest danger" conviction and the lascivious carriage conviction. There has been no appeal from the lascivious carriage conviction. It stands without any infirmity and it supports the sentence of the Connecticut Court independently of the "manifest danger" conviction.

It is settled law, as stated in *Classen v. United States*, 142 U.S. 140, 146-147 (1891) that in any criminal case a general verdict and judgment on an indictment or information containing several counts cannot be reversed on error, if any one of the counts is good and warrants the judgment, because, in the absence of anything in the record to show the contrary, the presumption of law is that the court awarded sentence on the good count only.

The same rule applies to concurrent sentences. "The conviction under the second count is without constitutional infirmity. Hence we have no occasion to review the conviction on the first count, since, as we have already stated, the sentences on the two counts are to run concurrently and conviction on the second is sufficient to sustain the sentence". *Hirabayashi v. United States*, 320 U.S. 81, 105 (1943). See also *Pinkerton v. United States*, 328 U.S. 640 (1946) and *Lawn v. United States*, 355 U.S. 339, 362 (1958), and *Lanza v. N.Y.*, 370 U.S. 139 (1962) *United States v. Romano* 382 U.S. 136, 138 (1965).

II. The Appellant Cannot Prove Unconstitutional Vagueness of Sec. 17-379 C.G.S. Without Showing That As Applied to the Facts of Her Own Case the Statute Was So Vague and Uncertain That She Was Not Presented with an Ascertainable Standard of Guilt.

After appellant's demurrer was overruled she pleaded not guilty and elected a court trial. There followed a full trial on the merits and a finding of guilty. Appellant appealed her conviction on the sole ground that the overruling of the demurrer was in error.

There is no transcript of the testimony before the Court, no indication of what conduct of appellant led to her conviction. Yet she says in effect that the Court should declare Sec. 17-379 *C.G.S.* unconstitutionally vague because

"A young girl is required to guard against all moral and social faults or shortcomings, and yet she is unable to ascertain from the statute the standard of morality or social value" — Appellant's brief, pg. 12.

Sec. 17-379 is not patently vague on its face. If the Court had before it the evidence of appellant's conduct which led to the conviction, it would be in a position to judge the conduct and the application of the statute to it.

"The appellant seeks to prove his point by suggesting hypothetical cases taken from the peripheral areas of the statute's scope; but he can derive no assistance from that source. He must show that, as applied to his own case, the statute was so vague and uncertain that he was not presented with an ascertainable standard of guilt". *United States v. Irwin* 354 F.2d 192, 196 (1965).

"Void for vagueness means that criminal responsibility should not attach where one could not reasonably understand that his contemplated conduct is proscribed. *United States v. Harriss* 347 U.S. 612, 617 (1954). In determining the sufficiency of the notice a statute must of necessity be examined in the light of the conduct with which a defendant is charged. *Robinson v. United States* 324 U.S. 282 (1945), *United States v. National Dairy Corp.* 372 U.S. 29, 32, 33 (1963).

The Supreme Court of Connecticut has also passed on this point of law. "There is no finding of facts, nor were there any claims of law. The record includes neither the booklets which were alleged to contain obscene or indecent language or pictures nor any of the verbal testimony or other evidence. It may well be that the language and pictures contained in the booklet were patently obscene and that it was obvious from all the circumstances that the defendant knew that they were. It is true that when a demurrer is overruled and the defendant pleads over and goes to trial on the merits, these questions may not present

any reversible error when reviewed in the light of the facts found by the trial court from evidence properly received under the pleadings and in the light of the application of the law to the facts". *State v. Sul* 146 Conn. 78, 82 (1958). "A statute may operate in a manner consistent with constitutional requirements when applied to one set of circumstances, although as to another it may produce a result which makes its operation unconstitutional". *Ibid.*, 81. While the Court in the *Sul* case did proceed to review the constitutional issues, even though they were improperly raised, it is submitted that the principle of law involved is by now so clearly and firmly established under Federal and Connecticut decision that the Court should refuse to examine this statute in *vacuo*. The reasons for this, as set forth above, are not merely technical and procedural; they go to the very essence of the Court's ability to pass on the constitutionality of the statute here involved.

III. Appellant's Conviction and Confinement Under C.G.S. Sec. 17-379 Are Not in Violation of the Due Process or Equal Protection Clauses of the Constitution.

A. In Light of the Purpose of the Legislation and the Safeguards Afforded Appellant in this Case, No Further Application of Constitutional Standards Is Required.

It is clear from an examination of Sec. 17-379 and related statutes that its purpose is to reclaim and rehabilitate certain young women from a self-destructive and society-destructive life. To be sure, confinement in an institution is involved. However, this penal feature is more than outweighed by the protective and beneficial nature of the legislation. "Only such offenders may be committed to said institution as in the opinion of the trial court will be benefited physically, mentally or morally by such commit-

ment . . ." *C.G.S.* Sec. 17-360. See Appendix B, minutes of the hearing before the Connecticut Senate Humane Institutions Committee on the bill to establish a state farm for women, February 21, 1917. The Farm was established in 1918.

In *In re Gault* 387 *U.S.* 1 (1967), the sentence also involved confinement in an institution. Unlike young Gault, Miss Mattiello had and exercised her rights to: notice of charges, counsel, confrontation, and cross-examination. She had and exercised her privilege against self-incrimination. Here was a full trial on the merits, and nothing concerning the conduct of the trial is challenged. Having been adjudged in "manifest danger of falling into habits of vice," appellant attacks the substance of the statute as "vague" and the sentencing provisions as discriminatory. In *Gault,* the Court said, at pg. 27, " . . . nor do we here rule upon the question whether ordinary due process requirements must be observed with respect to hearings to determine the disposition of the delinquent child."

The fact that confinement is involved should not obscure the facts that here (1) appelant received the full measure of protection as required by this Court in the *Gault* decision; (2) the clear purpose of the confinement was not to punish but to provide opportunity to correct before it is too late; (3) vice, like obscenity and libel, is not a constitutionally protected area. See *Roth v. United States* 354 U.S. 476 (1957).

The right of the state to control the conduct of children is broader than its authority over adults. The statute here under attack seeks to save young women from a life of crime and vice and its constitutionality should be judged with that purpose in mind. See *Prince v. Massachusetts,* 321 U.S. 158 (1944), and *Ginsberg v. New York,* 390 U.S. 629 (1968).

B. Even if the Equal Protection Clause is Applicable, it was not Violated as to Appellant.

Appellant argues that she is discriminated against *vis-a-vis* married women and *vis-a-vis* young men. Sec. 17-360 places a limitation of three years, including time spent on parole, for a "manifest danger" sentence. This, or the twenty-one years of age limitation under Sec. 17-379 would apply, depending on which is less in a given case. See Appendix A. In this case, the three-year limitation is applicable to the appelant, as it is to married women committed under 17-360. Appellant was seventeen at the time of her commitment.

The legislature did not make "manifest danger of falling into habits of vice" a ground for commitment of married women. Neither is adultery an offense of which a single woman could be convicted and sentenced, *C.G.S.* Sec. 53-218. A married woman, however, could be convicted of adultery and sentenced to the State Farm for Women *C.G.S.* Sec. 17-360. Other offenses, such as bigamy *C.G.S.* Sec. 53-221, and abandonment of spouse and cohabitation with another, *C.G.S.* Sec. 53-222, are of course applicable only to married persons, and in the case of women, subject them to commitment to the State Farm. The legislature determined that there was a need for additional legislation, designed specifically to protect young unmarried women and to regulate their conduct. The conduct of such persons, without husbands and often without a home, is a proper subject of regulation within the framework of the statutory language.

Appellant also contends that Sec. 17-379 discriminates against her in that males in the same age group are not liable to conviction for being in "manifest danger of falling into habits of vice." She further argues that there is an unconstitutional disparity of sentence between young unmarried females and young males.

The Fourteenth Amendment does not interfere with state legislation differentiating between the sexes by "creating a fictitious equality where there is a real difference. The particular points at which that difference shall be emphasized by legislation are largely in the power of the State." *Quong Wing v. Kirkendall* 223 U.S. 59, 63, (1912).

An example of a "real difference" is the maternal function and the interest of the State in the future of the race. ". . . she is properly placed in a class by herself, and legislation designed for her protection may be sustained even when like legislation is not necessary for men, and could not be sustained." *Muller v. Oregon* 208 U.S. 412 (1908), See also *West Coast Hotel Co. v. Parrish* 300 U.S. 379 (1936), *Grunewald v. Gardner* 390 F 2d 591 (1968), *United States v. Cocklin* 178 F Supp 318 (1959).

"For a State is not constrained in the exercise of its police power to ignore experience which marks a class of offenders or a family of offenses for special treatment. Nor is it prevented by the equal protection clause from confining its restrictions to those classes of cases where the need is deemed to be clearest." *Skinner v. Oklahoma* 316 U.S. 535, 540 (1942) and cases there cited.

While Section 17-391, *C.G.S.*, quoted in appellant's brief, places a maximum limitation of two years on Circuit Court reformatory sentences of certain males, the same limitation does not apply to reformatory sentences by the Superior Court. See Sec. 17-390 *C.G.S.* quoted *supra.* Thus, males between sixteen and twenty-one convicted of felonies may be sentenced for five years. Women sentenced to the State Farm for felonies are not subject to a comparable increase in duration of sentence.

"We think that with reference to the public proclaiming of religion, upon the streets and in other similar public places, the power of the state to control the conduct of children reaches beyond the scope of its authority over

adults, as is true in the case of other freedoms, and the rightful boundary of its power has not been crossed in this case." *Prince v. Massachusetts,* 321 U.S. 158, 170 (1944).

In *Ginsberg v. New York,* 390 U.S. 629, (1968) this Court cited *Prince v. Massachusetts* with approval and affirmed the principle that the State has an interest to protect the welfare of children and to see that they are safeguarded from abuses which might prevent their proper development.

Even if the Court were to adopt the reasoning of *United States ex rel. Robinson v. York,* 281 F. Supp. 8 (D.C. Conn. 1968) cited at page 18 of appellant's brief, the following rule, in the language of that opinion at page 18, would be applicable: "It is also the rule that a sentence which is invalid because it is in excess of what the law permits is not invalid in its entirety, but only as to that portion which exceeds what is permissable." Thus, if the "disparity of sentence" argument prevails, the maximum sentence becomes two years instead of three.

C. Even if the Due Process Clause is Applicable, C.G.S. Sec. 17-379 is not Void for Vagueness.

While it is axiomatic that criminal statutes must be strictly construed, this rule does not require that the narrowest technical meaning be given to the words employed in disregard of their context and in frustration of the obvious legislative intent. *United States v. Corbett,* 215 U.S. 233, 242 (1909), *State v. Faro,* 118 Conn. 207, 274 (1934).

No more than a reasonable degree of certainty can be demanded of a criminal statute, and it is not unfair to require that one who deliberately goes perilously close to an area of proscribed conduct shall take the risk that he may cross the line. *Boyce Motor Lines v. United States,* 342 U.S. 337 (1952).

The words of Sec. 17-379 are not vague and uncertain. The word "vice" must be read in the context of the general statutory scheme and in juxtaposition to the phrase "or who has committed any crime" in the section. Thus it can be fairly construed that the type of vice referred to is that of which the criminal law takes cognizance. It is clear that only *serious* misconduct is proscribed. The danger must be *manifest,* and *habits* of vice, not an isolated act, must be involved. The trier had these words to work with, and he had to apply them to appellant's conduct as he heard the evidence. It is submitted that the words of Sec. 17-379 pose no great problem to the trier nor do they fall short of giving fair notice to the prospective offender, when compared with other statutory language that courts are daily called upon to interpret and apply, e.g. "obscene," "lewd," "lascivious," "indecent," "moral turpitude," "willful or wanton misconduct."

"Manifest" means "capable of being readily and instantly perceived by the senses, especially by the sight, not hidden or concealed, open to view . . . capable of being easily understood or recognized at once by the mind, not obscure, obvious. . ." *Webster's 3rd New International Dictionary of the English Language (Unabridged)* (1961). See also *The Random House Dictionary of the English Language (Unabridged)* (1966): "readily perceived by the eye or understanding; evident; obvious. . ."

Webster's defines "habit" as ". . . a behavior pattern acquired by frequent repetition or developed as a physiologic function and showing itself in regularity. . ."

"Vice" is defined by *Webster's* as "moral depravity or corruption, evil conduct or habits, indulgence of degrading appetites, wickedness, a wrong, degrading or immoral habit or practices . . . sexual immorality esp.; Prostitution." *Random House* defines vice as "an immoral or evil habit or practice, immoral conduct, depraved or degrading behavior: a life of crime and vice."

The dictionaries tell us what any reasonable person knows. There is nothing obscure or vague about the words of the statute. When considered in the context of what this corrective legislation seeks to achieve, it is abundantly clear that only unmarried young females who are a manifest menace to themselves and society are within its purview.

"This Court goes far to uphold state statutes that deal with offenses difficult to define, when they are not entwined with limitations on free expression." *Winters v. New York* 333 U.S. 507, 517 (1948). See also *Ginsberg v. New York,* 390 U.S. 629 (1968), *Roth v. United States* 354 U.S. 476 (1957).

CONCLUSION

For the reasons stated above, this Court should either decide that jurisdiction should not have been granted or affirm the conviction.

Respectfully submitted,

GEORGE F. CARROLL, JR.
Prosecuting Attorney
Circuit Court of Connecticut
First Circuit, Norwalk

APPENDIX

APPENDIX A

STATE OF CONNECTICUT

ATTORNEY GENERAL'S OFFICE

HARTFORD

December 30, 1958

Miss Elizabeth B. MacKenzie
Superintendent
State Farm for Women
Niantic, Connecticut

Dear Miss MacKenzie:

In your memorandum of December 17, 1958, you have asked our advice concerning Section 2761 and Section 2745 of the General Statutes, Revision of 1949. In your letter you stated as follows:

"May we have your interpretation of two sections of the statutes, Section 2761 and Section 2745.

"Section 2761, entitled Commitment of Girls Over Sixteen, states in part, 'Any unmarried female between the ages of 16 and 21 who is in manifest danger of falling into habits of vice . . . upon conviction thereof may be committed until she has arrived at the age of 21 years to the custody of any institution . . . '.

Our questions are these:

"1. If a girl is committed to us whose age is such that there are more than three years from the date of her commitment to her 21st birthday, may she be held under the supervision of the institution until she is 21?

"2. If her date of commitment is less than three years to her 21st birthday, does she have to be released from the supervision of the institution when she arrives at the age of 21?

"3. In the event that your opinion is that such an inmate may be held beyond her 21st birthday, would she automatically then come within the provisions of Section 2742, the last sentence of which states 'the duration of such commitment including time spent on parole shall not exceed three years . . .' ?

"With respect to Section 2745, entitled Escape of Inmate, which gives the Directors of the Institution power to add an additional year to the time of an inmate who escapes, is this statute applicable to a girl who has been committed under the Manifest Danger charge (Section 2761)?"

Section 2761, as amended by Section 1568d of the 1955 Supplement, is a statute of general application and provides that any unmarried female person between the ages of 16 and 21 years convicted under the terms of this statute may be committed until such person arrives at the age of 21 years to the custody of any institution, except Long Lane School, chartered by the General Assembly or incorporated under the general laws, for the purpose of receiving and caring for females.

In order to determine the length of a committment to your institution, we must look to Section 2742, which pertains to the State Farm for Women and specifies three classes of female persons who may be committed to the Connecticut State Farm for Women. We are concerned only with the third class mentioned in Section 2742. This class is for those persons who have been convicted in accordance with the provisions of Section 2761. When a Court commits to the State Farm for Women a female person convicted under Section 2761, the commitment to

the State Farm is under the authority contained in Section 2742. This statute provides that comitments to your institution shall be for an indefinite term and it further provides that "The duration of such commitment, including the time spent on parole, shall not exceed three years".

In reply to your first question, it is our opinion that when a girl is comitted to the State Farm for Women under Section 2742 by virtue of having been convicted under Section 2761, the maximum term for which she can be held at the State Farm for Women is three years.

With reference to your second question, Section 2761, as amended by Section 1568d, provides that any person convicted under this statute may be committed until she arrives at the age of twenty-one years. It is our opinion that this age limitation applies to persons committed to the State Farm under Section 2742.

Answering your specific question, a person who arrives at her twenty-first birthday in a period of less than three years from the date of commitment must be released upon reaching the age of 21 years.

In view of our answer that a person committed under Section 2742 after conviction under Section 2761 cannot be held at the State Farm for Women beyond her twenty-first birthday, it is not necessary to discuss your third question.

(The final paragraph of this letter was not pertinent to the subject, and has therefore been deleted.)

Very truly yours,

John J. Bracken
Attorney General

By Raymond J. Cannon
Assistant Attorney General

APPENDIX B

HUMANE INSTITUTIONS COMMITTEE

Hearing Feb. 21, 1917. (Excerpt)

S.B. No. 12 (Sen. Hemenway) Concerning reformatory for women.

S.B. No. 126 (Sen. Lyman) Concerning state farm for women.

Senator Bartlett:

I want to say just a word in favor of this proposition generally. We want something that provides some sort of institution for delinquent women. The point has been reached in the State of Connecticut where it would be a great credit to the State and in the duty of the State at this time to provide some sort of institution, farm, reformatory or something that people better qualified could work out. Without any question I wish to appear and be noted in favor of the proposition in general.

Senator Lyman:

I wish to say to the Committee that it gave me a great pleasure to endorse the measure which was drawn by Prof. Bailey. I believe that it is the best bill that has been presented to Legislature of its kind.

Senator Koppleman:

I have read these bills and I simply desire that the Committee may know that I am in favor of the propositon and trust that a favorable report will be made by this Committee to the Legislature.

Senator Hemenway:

I have talked with the members of the Conn. Prison Association and as far as I am concerned my bill need not be considered as a bill and I understand that the Prison Association wish to be included in whatever bill shall be recommended by the Committee.

C. M. Holloway:

During the course of my experience along this line I find a need of an institution of this kind and it would really be a crime if we were to defer it.

Prof. Bailey:

I submit this bill in place of Bill No. 126 which embodies certain recommendations of Senator Hemenway and can be considered a substitute for the two bills under consideration.

Four years ago Gov. Baldwin appointed a Committee consisting of five members, two women and three men, for investigating the advisability for a reformatory in this state. That committee studied the matter for a year and a half and finally handed in a report advising such an institution and with their report embodied a law. That bill was heard before the Committee on Humane Institutions and received a favorable report. It was then read by the Committee on Appropriations and was heard no further. It seemed best to the Conn. Prison Ass'n two years ago to continue the study of this matter of a reformatory for women and therefore a committee was appointed of which Miss Mary A. Goodman was Chairman. This committee was composed of about twenty members. They divided themselves up into several sub-committees and I believe that there is no single bill that has received the study and attention that has been given this particular bill at the hands of these women.

I should like to take up the question of the necessity of a reformatory for women in this state. As you know there is no public penal institution to which delinquent women over the age of 16 years can be sent except States Prison or County Jail. I do not believe that anyone will need to state that the County Jails cannot be classed as reformatories. I have placed on the desk of each one of you a short tabulated statement of the number of women who were committed to jails of this state last year, the number of days they spent in jail, the cost and the proportion that were repeaters. About one-half of the women sent to jail in the state are sent there again. There is no classification of inmates, there is no attempt at reform and they learn a little more wickedness than they knew before they went there. The cost to the State for these women is about $120,000.00 a year and it is an expense that is incurred without reforming anyone, without doing any good for these women, the net result of which is to make them worse than when they went there. Therefore it seems as though Connecticut could not only afford to have a reformatory but cannot afford to go without one when it comes to the mere matter of dollars and cents. When it was decided to study this matter further and it became evident something ought to be done we asked the best authority to come to the State of Connecticut and give an address on this subject.

When it was deemed best to establish some sort of institution for women it became the question of what sort of institution. Here the Committee made a more carefuly study than has ever been made by this Committee and this bill was finally picked out. You certainly ought to get the reformatory this year and I hope you will. The State Board of Charities in their annual report favor it, the Conn. Prison Association, the Connecticut Humane society, the Daughters of Veterans, the State Temperance Union, the Conn. Federation of Mothers have come out in favor of this bill and have been very active in their interest in favor of it.

Now in regard to this institution. First, it will be in the Country, it will be a farm colony. A great many of these women are shot to pieces by drink or drugs and we wish to cure them of these habits. It is frequently possible to do this.

I have visited reformatories for women and the girls work out in the fields, raising the foods for these institutions. It is a good thing for them. Then it will have a training school. No girl will be allowed to leave until she is able to do some one thing. She will not be allowed to leave until she has worked her way up from the first grade to the last grade. Whether she can go out or not will not depend upon any pull from her relatives but from the merits of her own work and as soon as the Board feel she is able to work and earn her own living. She will be put on parole and if she breaks her parole she will be brought back again. They will be sent to this institution until cured and until the directors think that when released they will make decent women. This institution will be under the control of a woman superintendent and a board of directors, three women and four men. I think there should be both men and women on the Board and a woman superintendent to run the institution. There should be about 200 acres of land. The more land the cheaper the institution can be run. We ask for $50,000.00. It is a modest sum. With $50,000.00 we hope to purchase at least 200 acres of land and farm buildings. It should be near a railroad. When it becomes necessary to enlarge the buildings another small building may be built. It should be possible to run this institution for about $200.00 an inmate. This institution in time ought to care for most of the criminal women in the state. It would be possible before long to empty the jails and have all women that are sent to jail, sent to this institution. We are spending every year on the women in our jails enough to run an institution of one hundred inmates. In fact a reformatory for one hundred would mean a perfect reformation of one hundred women. As it is now it means the expense without any reform.

Senator Russell:

How many do you suppose there might be?

Prof. Bailey:

From 150 to 200 women if you had an institution as large as I suggest and you would not need to have any woman in the jails of this state.

Valeria M. Parker, Representing Conn. Society of Social Hygiene:

I want to speak from a first hand knowledge of these women whom I learned to know best when I served as Probation Officer. The present method is too expensive. The state is spending enormous sums and it is doing nothing for the women. They are worse off after they have served their sentence than before. The proof of this lies in the fact that so many are serving many sentences. Out of the fifty women who were at one time in our county jail but two were serving first sentence. There were many who were serving their 40th or 50th sentence. The money that is being spent on these women is not being spent wisely. The young women from 16 to 21 years of age may be admitted to only one of two private institutions, one Catholic and one Protestant. There is serious objections to having state wards admitted to private institutions. For the women over 21 years of age there is nothing but the jail or states prison. We have, however, a custom of fineing these women and sending them out to earn their fine and they frequently earn the money to pay their fine by comitting the same crime for which they were arrested. There is another custom in Connecticut, that is the custom of sending a woman with one or more children to the Town Farm. We had a flagrant case of this in one of the town farms of this state. The woman had been turned away from home because she was to have a child and she was not married. Nine months ago this woman gave birth to a fourth child. The father was an inmate of the town farm. One of the authorities of the town stated that it was an

unavoidable instance. Such instances should be made avoidable. You are to consider this from the side of expense. The cost of human misery cannot be estimated. In other states there are three facts that have been found out about women admitted to reformatories. First the fact that although there are many classes of women admitted for other offenses other than immorality the majority are so charged. The second fact is the fact that a majority of these women are diseased and this strikes at the root of family life. These women go out from jail without any help to retrieve themselves. The third fact is that a very large percentage are found to be feeble minded. They are of the far more dangerous type. As a rule the outward appearance is normal but upon examination they are found to have a child's mind and a woman's body and these women become the victims of a class of men about whom you know. These are the women we want to help. As we are dealing with them at the present time they are raising larger families than the perfect woman and these children of degenerate parents are to become the citizens of this state. We want to protect these women who are not fitted to be mothers and keep them guarded.

It is your privilege to start this bill towards its favorable consideration and we ask you to consider the wide spread interest that is now in the state in regard to this bill. There are men and women who have grown white haired in the cause. We ask you to use your efforts in behalf of this bill.